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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91207808
Party	Defendant Denise R. Selk dba Coco-Jo's
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<b>PATTERSON ENTERPRISES d/b/a SUNCARE DISTRIBUTORS,</b>	)	
	)	
<b>Opposer,</b>	)	<b>Opposition No. 91207808</b>
	)	
<b>V.</b>	)	<b>Serial No. 85563577</b>
	)	
<b>DENISE R. SELK d/b/a COCO-JO's.</b>	)	<b>Mark: HAFA ADAI</b>
	)	<b>Filing Date: February 18, 2012</b>
<b>Applicant.</b>	)	
	)	

Box TTAB NO FEE  
Honorable Commissioner of Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

## **APPLICANT’S BRIEF IN OPPOSITION AND CROSS MOTION IN SUMMARY JUDGEMENT**

Applicant, Denise R. Selk, dba Coco-Jo’s (“Coco-Jo’s”), opposes the motion for summary judgment made by Patterson Enterprises, dba Suncare Distributors (“Suncare”), and moves, as a cross motion, for Summary Judgment, affirming Coco-Jo’s registration for the HAFA ADAI mark, denying Suncare’s opposition to said registration, and revoking Suncare’s concurrent use of the mark (Ser.# 85563577).

### **COCO-JO’S BRIEF IN OPPOSITION TO SUNCARE’S MOTION FOR SUMMARY JUDGEMENT**

#### **I. Coco-Jo’s opposes Suncare’s motion for summary judgment based on the following:**

##### **A. SUNCARE’S LACK OF STANDING**

1. Suncare’s referenced authority for “first in use,” *U.S. v. Steffens*, 100 U.S. 82, 92 (1879), does not support Suncare’s claim because the ruling does not confer protection for the illegal use of a mark. The ruling does not condone the illegal use of trademarks but affirms the rights of legal users.
2. Suncare is using the mark for the illegal purpose of geographic deception, Ex. A. Photos of geographically deceptive Suncare products.
3. Suncare’s use of the mark is illegal as it violates a number of laws, including, but not limited to, the following:
  - a. 5GCA CH.32, § 32201 (4) Deceptive Trade Practices Unlawful
  - b. §2(15 U.S.C. § 1052) (a) deceptive marks not registerable
  - c. Federal Food, Drug, and Cosmetic Act, Title 15, Ch. 39 §1456, (a) Misbranded consumer commodities
  - d. 12GCA CH.50, §50207 (b),(c),(d) Guam Product Seal

Suncare is not eligible for the HAFA ADAI mark thus, has no standing to oppose Coco-Jo's' registration. §2(15 U.S.C. § 1052) (a) deceptive marks not registerable.

**B. SUNCARE'S "FIRST USE" CLAIM IS NOT CREDITABLE**

1. Opposer's claim of February 1, 2012 as their "first use" date is not supported by the evidence offered, Ex. B, Suncare's email exchange, or the law as the evidence does not meet the requirements of establishing "first legal use" of the mark. *Aycock Eng'g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1357 (Fed. Cir. 2009) (quoting 15 U.S.C. § 1127 (2006)). Coco-Jo's asserts that Suncare's evidence is suspect and cannot be relied upon as truthful and accurate, for example:

- a. HAFA ADAI was not discussed or mentioned anywhere in the communications. Ex. B, Suncare's email exchange.
- b. Suncare makes the claim that "Suncare chocolate and confection bearing the HAFA ADAI mark were first shipped to Guam on January 15, 2012." Suncare Motion For Summary Judgment, pg. 7, ¶3 , and that "Suncare then sold these products bearing the HAFA ADAI mark through retailers in Guam beginning on February 1, 2012." Suncare Motion for Summary Judgment, pg. 8, ¶1. No evidence was offered supporting that claim.
- c. Suncare's only evidence offered to support their claim of a "first use" date of February 1, 2012 is a series of seven emails, dating from January 4 to February 3, 2012, between Suncare and their supplier in China allegedly designing Suncare's HAFA ADAI

packaging. Ex. B, Suncare's email exchange.

- d. The two claims, referenced in b and c above, are contradictory.

It would be impossible for the product to be packaged and shipped by January 15, 2012, with the packaging still in the design stage as of February 3, 2012, as evidenced in Suncare's claim. Ex. B, Suncare's email exchange. Furthermore, said evidence, *Id.*, does not qualify as establishing "first use" as a rule of law. *Aycock Eng'g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1357 (*Fed. Cir.* 2009) (*quoting* 15 U.S.C. § 1127).

- e. Being that the "First Use" for Suncare cannot be properly substantiated by creditable evidence, Coco-Jo's "first use" should be considered superior. Coco-Jo's "first use" date is not disputed.

2. Suncare's "first use" is not relevant because Suncare is not eligible for the mark. §2(15 U.S.C. § 1052) (a) deceptive marks not registerable.

**C. SUNCARE FAILS TO SHOW THAT THERE EXISTS NO MATERIAL FACTS IN DISPUTE.**

1. Suncare's claim of a "first use" date of February 1, 2012 is disputed.
2. Suncare's claim that their products are not geographically deceptive is disputed.
3. Suncare's claim that they have legal standing is disputed.
4. Suncare's material evidence supporting their "first use" is disputed.

## **MEMORANDUM OF LAW IN SUPPORT OF COCO-JO'S BRIEF IN OPPOSITION AND CROSS MOTION IN SUMMARY JUDGEMENT**

Coco-Jo's opposes Suncare's Motion for Summary Judgment and moves, as a cross motion, for Summary Judgment in favor of Coco-Jo's thereby affirming Coco-Jo's' registration, and the immediate suspension and denial of Suncare's Concurrent Use registration application.

### **II. INTRODUCTION**

As the first to register, and having "first legal use" in commerce for the mark in association with cookies and chocolates, Coco-Jo's is the rightful owner of the HAFA ADAI mark for chocolate, cookies, confections and related products. Coco-Jo's established a "first to file" date of February 18, 2012, Serial no. 85546646, after almost a year of brainstorming and research. Coco-Jo's began using the mark on March 8, 2012 on existing Coco-Jo's' products on sale in stores to build the mark's identity in the context of Guam-made chocolates and cookies by association with Coco-Jo's' known quality of confectionary products. That was followed by a May 16, 2012 "Amendment to Allege Use" filing with USPTO.

Suncare has a history of deceptive practices. Ex. G, Suncare's history of deceptive packaging, Ex. A photos of geographically deceptive Suncare products. Suncare had been importing and distributing pre-packaged GUAM branded chocolates and cookies into Guam from China, and "Guam U.S.A." pre-packaged dried fruit from the Philippines for several years prior to their use of the HAFA ADAI mark. *Id.*

In November 2011, the Governor of Guam signed into law an amendment to PL 18.42; 12GCA CH.50 §50207 the Guam Product Seal Law, intended to enhance enforcement of the Guam Product Seal Law. The intent of the law was to stop the "Guam" or "Chamorro" branding of foreign products. Suncare quickly found a way to circumvent the law. Suncare removed the word GUAM from their products; as a way of circumventing the law in order to continue the

sales of the same deceptive products, Suncare substituted “HAFA ADAI” everywhere “GUAM” had been previously used on their packaging. The UPC codes for the products did not change.

Suncare submitted an application for the HAFA ADAI mark with the Guam Trademark Registry at Guam’s Department of Revenue & Taxation. Ex. H, Guam Trademark Certificate. By law, the Guam Trademark Registry is available only to holders of USPTO registered marks. 5GCA CH.20 §20405 (b) Guam Registry Law. Suncare made no attempt to file for the mark with USPTO until Coco-Jo’s’ launch of the HAFA ADAI mark in commerce on March 8, 2012. Suncare filed an opposition to Coco-Jo’s’ USPTO registration and applied for a concurrent use registration for the mark Ser.# 85563577.

On or about April 1, 2012, Suncare flooded the market with cheaper, poor quality, Chinese-made, chocolate flavored candy with the HAFA ADAI brand. This was followed by Chinese HAFA ADAI branded cookies. Ex. G, Suncare’s products. Suncare’s products have tainted Coco-Jo’s’ HAFA ADAI mark so severely that Coco-Jo’s has suspended use of the mark in association with the Coco-Jo’s’ line of gourmet quality cookies and chocolates so as not to further taint the image of Coco-Jo’s’ products through mistaken association with Suncare’s use of the mark on cheaper, low quality, Chinese-made products. Legitimate Guam manufacturers, like Coco-Jo’s, are unable to compete with the low cost of imported products from China and other Asian countries if they are packaged deceptively as Guam or U.S.A. made.

### **III. STATEMENT OF FACTS**

#### **A. Suncare’s Use of the HAFA ADAI mark**

Suncare is an import and wholesale company operating in Guam and is the island’s largest importer of foreign-made, deceptively packaged goods. Suncare accomplishes this with packaging that depicts typical island scenes, island girls with leis, outlines of the island of Guam, maps of Guam and the HAFA ADAI mark. Ex. A, Suncare product photos.

“Hafa Adai” in Chamorro, a language spoken only by the peoples of Guam and the other Mariana Islands, is a word of greeting that is used in the same way that “Aloha” is used in Hawaii. Ex. C, The meaning and significance of Hafa Adai. Its popularity can be attributed to decades of promotions by the visitor industry, the Guam Visitor’s Bureau, the Guam Airport Authority, and the airlines. Ex. C, The meaning and significance of Hafa Adai.

Suncare previously used the word “Guam” as their brand (i.e. GUAM Chocolates, GUAM Cookies, etc.). Ex. G, Suncare’s history of geographic deception. When enforcement of the laws restricting its use was imminent, 12GCA CH. 50 §50207, Suncare then switched to the iconic local greeting “Hafa Adai.” Suncare’s target market is the Guam visitor industry. Guam received 1,200,000 visitors in 2012. Most are from Asia, 72% are from Japan, and 93% are from non-English speaking countries in Asia. Ex. D, Fiscal year arrivals, excerpt from GVB 2012 annual report. The average Japanese tourist is very trusting, especially with products sold under the USA umbrella in major stores. Add to that their limited ability to read and comprehend English and you have a prime Suncare victim. Additionally, because of Suncare’s deceptive packaging, many locals have also purchased Suncare’s products thinking that they are buying a local product. Ex. E, UOG student essay, Ex. I, J. Martinez Declaration.

Suncare claims a “first use” date of February 1, 2012. This claim is not substantiated by the evidence presented and is invalid because it does not qualify, by law, as evidence of “first use.” *Aycock Eng’g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1357 (Fed. Cir. 2009) (quoting 15 U.S.C. § 1127). Suncare’s deceptive practices are in violation of Federal and Guam law. 5GCA CH.32, § 32201, Deceptive Trade Practices Unlawful, §2(15 U.S.C. § 1052)(a) deceptive marks not registerable, Federal Food, Drug, and Cosmetic Act, Title 15, Ch. 39 §1456(a) Misbranded consumer commodities, 12GCA CH.50, §50207 Guam Product Seal law. Suncare has failed to prove that they are not using the mark for the purposes of geographical deception thereby failing



to show that they are entitled to the HAFA ADAI mark. Additionally, Suncare has failed to provide creditable evidence to support their “first use” claim based on the requirements of the law. *Aycock Eng’g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1357 (Fed. Cir. 2009) (quoting 15 U.S.C. § 1127). Suncare failed to offer creditable evidence to support a legal “first use” date.

#### **B. Coco-Jo’s’ Hafa Adai Mark**

Coco-Jo’s is a small family-operated manufacturing and distributing company with its manufacturing facilities located in Guam. Unlike Suncare, who imports all of its products from China and elsewhere, Coco-Jo’s manufactures all of its own products on Guam with ingredients sourced on Guam or with sources in the United States. Coco-Jo’s distributes its products locally and is Guam’s number one exporter of Guam-made products to Asia. After registering the HAFA ADAI mark with USPTO on February 18, 2012, Coco-Jo’s began building the mark’s image by using the mark with Coco-Jo’s cookie and chocolate products, as they are well known for quality. Coco-Jo’s’ plan was to develop the HAFA ADAI mark as a stand-alone brand of products that would be worthy of representing our beautiful island of Guam. These plans have been put on hold until Suncare’s taint on the mark can be removed and the damage repaired. Ex. E, UOG student essay, Ex. I, J. Martinez Declaration.

### **ARGUMENT FOR COCO-JO’S BREIF IN OPPOSITION AND CROSS MOTION IN SUMMARY JUDGEMENT**

Coco-Jo’s has superior rights to the HAFA ADAI mark based on its “first legal use in commerce” and its status as first to file. Suncare is using the mark as part of their geographically deceptive packaging scheme; Ex. A. Photos of geographically deceptive Suncare products, and is precluded by law for use and ownership of the mark. §2(15 U.S.C. § 1052) (a) deceptive marks not registerable.

### **A. The Summary Judgment Standard**

Summary judgment is appropriate where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56; *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 585-87 (1996). To create a material issue for trial, there must be sufficient evidence in the record to support a verdict in the non-moving party’s favor. *Tullo v. City of Mt. Vernon*, 237 F.Supp. 2d 493 (S.D.N.Y. 2002).

Summary judgment for Suncare is not appropriate here because there are genuine issues as to material fact concerning Suncare’s rights to the HAFA ADAI mark, because the likelihood of confusion between the parties’ marks exists. At issue is Suncare’s illegal use of the mark for geographic deceptive purposes, the validity of Suncare’s evidence of first use, and Suncare’s lack of legal standing in this case. The aforementioned issues will be presented in greater detail below.

Suncare claims that “Hafa Adai” is not geographically descriptive of Guam, when in fact, geographic deception is the only reason that Suncare is using it, to replace the geographically descriptive word “Guam” as part of a geographically deceptive packaging scheme. Ex. A. Photos of geographically deceptive Suncare products. Suncare freely substituted HAFA ADAI for GUAM when re-branding their products as well as on a map of the Pacific area used as a bottom of candy packaging, Ex. A. Photos of geographically deceptive Suncare products. As a result, the Board should rule as a matter of law that Suncare’s Motion for Summary Judgment has no merit, Suncare’s application for concurrent use registration application serial no. 85563577 is fraudulent and Coco-Jo’s’ HAFA ADAI mark is entitled to registration.

The purpose of summary judgment is to avoid unnecessary trial and to save the time and

expense of litigation where there is no genuine issue of material fact that exists and where no evidence beyond the evidence submitted with respect to the summary judgment motion could reasonably change the outcome. *Pure Gold v. Syntax (U.S.A.Inc., 739 F.2d 624, 222 U.S.P.Q 741, 743 (Fed. Cir. 1984); Nature's Way Prods., Inc. v. Nature's Herbs, Inc., 9 U.S.P.Q.2d 2077, 2080 (T.T.A.B. 1989).*

The pleadings and declarations submitted in this action provide abundant support for Coco-Jo's Brief In Opposition and Cross Motion in Summary Judgment. Suncare has failed to provide creditable evidence to support their claim of a legitimate "first use" of the mark, and Suncare has not made any convincing argument that packaging, and their use of the mark on that packaging, is not geographically deceptive. Suncare's unethical and illegal business practices in association with the HAFA ADAI mark preclude Suncare of any ownership of the mark in the Principal Register or in the Concurrent Use Register. Without which, Suncare has no standing to oppose Coco-Jo's' registration thereby rendering Suncare's motion for summary judgment null and void. This case is then ripe for summary judgment in favor of Coco-Jo's. As a matter of due diligence, Coco-Jo's will expound on the aforementioned issues in the sections below.

#### **B. Suncare Has No Standing**

Standing to file an opposition exists for "[a]ny person who believes he would be damaged by the registration of a mark up on the principal register ..." 15 U.S.C. § 1063(a) (2006). "To establish standing in an opposition, an opposer must show that it has a 'real interest' in the outcome of the proceeding; that is, it has a direct and personal stake in the outcome of the opposition." *Corporacion Habanos, S.A. v. Anncas, Inc., 88, U.S.P.Q.2d 1785, 1790 (T.T.A.B. 2008).*

Suncare's use of the HAFA ADAI mark as part of their geographically deceptive packaging scheme is illegal, thereby precluding registration with the USPTO. *5GCA CH.32, §*

32201 (4) Deceptive Trade Practices Unlawful. §2(15 U.S.C. § 1052) (a) deceptive marks not registerable. Registration of the mark is not an option for Suncare, thereby excluding them as having a “real interest” in the outcome of the proceedings (Coco-Jo’s’ registration) *Corporacion Habanos, S.A. v. Anncas, Inc.*, 88, *U.S.P.Q.2d* 1785, 1790 (T.T.A.B.2008) and, such being the case, Suncare cannot claim any damages as a result of Coco-Jo’s’ registration of the mark. 15 *U.S.C. § 1063(a)* (2006), thus, Suncare has no standing in any matters concerning Coco-Jo’s’ registration of the HAFA ADAI mark.

### **C. Suncare Does Not have Priority Over Coco-Jo’s’ Mark**

Priority cannot be established for the illegal use of a mark under the Lanham Trademark Act § 2(d), 15 U.S.C. § 1052(d). Suncare has failed to demonstrate that their use of the mark is legal. The “opposer must prove by preponderance of the evidence that its common law rights were acquired before any date upon which applicant may rely.” *Embarcadero Techs. v. RStudio, Inc.*, 105 *U.S.P.Q.2d* 1825, 1834 (T.T.A.B. 2013) (citing *Trademark Act Section 2*, 15 *U.S.C. § 1052*; *Hydro-Dynamics Inc. v. George Putnam & Company Inc.*, 811 *F.2d* 1470, 1 *U.S.P.Q.2d* 1772, 1773 (*Fed. Cir.* 1987)). Suncare failed to provide creditable evidence, of their “first use,” legal or otherwise. “For trademarks, the ‘use in commerce’ requirement is met when the mark is (1) placed on the goods or container, or on documents associated with the goods if the nature of the goods make placement on the good or container impracticable; and (2) that good is then ‘sold or transported in commerce.’” *Aycock Eng’g, Inc. v. Airflite, Inc.*, 560 *F.3d* 1350, 1357 (*Fed. Cir.* 2009) (quoting 15 *U.S.C. § 1127* (2006)). Suncare has failed to show that (1) the mark was placed on the goods or container, or that it was impracticable to do so, and (2) Suncare provided no evidence to support the claim that they were shipped or sold. Suncare has failed to fulfill the required conditions for “first use” as established by law. *Aycock Eng’g, Inc. v. Airflite, Inc.*, 560 *F.3d* 1350, 1357 (*Fed. Cir.* 2009) (quoting 15 *U.S.C. § 1127*). Coco-Jo’s’ “first use” date is not

disputed and Suncare has failed to provide evidence of a valid earlier “first use” date. Coco-Jo’s mark has priority.

**D. The Parties’ Marks Are Likely To Be Confused**

Coco-Jo’s mark and Suncare’s mark are virtually identical in appearance and use. *Aycock Eng’g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1357 (Fed. Cir. 2009) (quoting 15 U.S.C. § 1127). Also, Coco-Jo’s and Suncare are selling similar types of products to the same customer base. As a result, there is a likelihood of confusion between the marks as a matter of law. *Midwestern Pet Foods, Inc. v. Societe Des Produits Nestle S.A.*, 685 F.3d 1046, 1052 (Fed. Cir. 2012) (citing *In re E.I. DuPont Denemours & Co.*, 476 F.2d 1357, 1361 (C.C.P.A 1973)).

**E. Suncare’s Mark Is Geographically Deceptive**

Suncare claims that “Hafa Adai” is not geographically descriptive of Guam, when in fact, it is the only reason that is using the mark; to replace the geographically descriptive word “Guam” in their geographically deceptive packaging scheme. Suncare freely substituted HAFADAIAI for GUAM when re-branding their products as well as on a map of the Pacific area used as a bottom of candy packaging. Suncare’s deceptive packaging scheme depicts typical island scenes, island girls with leis, outlines of the island of Guam, maps of Guam and the HAFADAIAI mark; Ex. A. Photos of geographically deceptive Suncare products, Ex. G, Suncare’s history of deceptive packaging. The iconic Guam phrase “Hafa Adai” is a phrase of greeting in Chamorro, a language spoken only by the peoples of Guam and the other Mariana Islands, of which Guam is the largest and most visited. “Hafa Adai” is used in the same way that “Aloha” is used in Hawaii. Ex. C, the meaning and significance of Hafa Adai. Its popularity can be attributed to decades of promotions by the visitor industry, the Guam Visitor’s Bureau, the Guam Airport Authority, and the airlines. *Id.*

Many of our visitors are repeat visitors, so they are already very familiar with the “Hafa Adai” greeting. Ex. I., J. Martinez Declaration. The vast majority of Guam’s visitors have researched the island in advance and have already been exposed to the “Hafa Adai” greeting as well. Visitors come to Guam for the sun and beaches, and because it is a United States territory, they have the expectation of a safe place, free from the hustles and scams found in most Asian destinations. Visitors are also very trusting of our large, American-style stores and shopping centers. It doesn’t occur to Guam’s visitors that they could be swindled by deceptively packaged Chinese-made goods in the stores of Guam’s major retailers. *Id.*

Our visitors, even those from China, are distrusting of Chinese manufactured food products because of serious quality and safety issues that they have experienced or heard about. Ex. E, UOG student essay, pp. 2-3, Ex. F, Chinese food safety. As a result, visitors will not knowingly buy Chinese-made food products. Ex. I., J. Martinez Declaration. Coco-Jo’s’ experience is that when visitors discover that the product that they thought was a Guam product was actually from China, they put it back and look for a genuine Guam product. *Id.* In Suncare’s attempt to portray their packaging scheme as “not geographically deceptive,” Suncare cites various cases as they relate to the “ordinary American” consumer – only 3.3% of Guam’s visitors are American, Ex. D, Fiscal year arrivals, excerpt from GVB 2012 annual report. The remaining 96.7 percent of visitors are from non-English speaking countries, making Suncare’s cite material inappropriate.

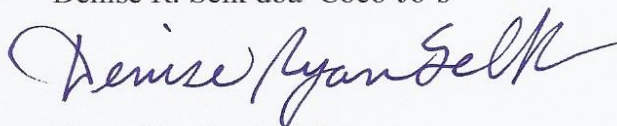
## **F. CONCLUSION**

Coco-Jo’s has established in this document that there are genuine issues of material fact regarding the validity of Suncare's claim to the HAFA ADAI mark, that there is a likelihood of confusion, and that Suncare has no standing to oppose Coco-Jo’s’ registration. Coco-Jo’s has also proven that Suncare’s use of the mark is illegal, geographically deceptive, and

unregisterable for their use. With Suncare having no rights to the mark and no standing to oppose Coco-Jo's' registration, Suncare's motion for summary judgment is null and void, thus eliminating all obstructions to the granting of Coco-Jo's' cross motion in summary judgment in favor of Coco-Jo's.

Coco-Jo's respectfully requests that the Board deny Suncare's motion for summary judgment, grant Coco-Jo's' cross motion in summary judgment, thereby affirming validity of Coco-Jo's' registration (Serial No. 85/546,646) and revoking Suncare's concurrent use registration (Serial No. 85563577).

Respectfully submitted,  
Denise R. Selk dba Coco-Jo's

A handwritten signature in dark ink, appearing to read "Denise R. Selk", written in a cursive style.

Dated July 22, 2013

By: /s/ Denise R. Selk  
P.O. Box 2676  
Hagatna, GU 96932  
Telephone: (671)828-6444  
Facsimile: (671)828-7355

## CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2013 (Guam time), I served a true and correct copy for the foregoing "BRIEF IN OPPOSITON AND CROSS MOTION IN SUMMARY JUDGMENT" (Opposition number 91207808) by US mail at the following address:

Thomas L. Holt  
STEPTOE & JOHNSON LLP  
115 South LaSalle Street, Suite 3100  
Chicago, IL 60603

Attorneys for Opposer

A handwritten signature in blue ink that reads "Denise R. Selk". The signature is fluid and cursive, with the first name "Denise" and last name "Selk" clearly legible.

By: /s/ Denise R. Selk  
Denise R. Selk, dba Coco-Jo's  
Applicant  
P.O. Box 2676  
Hagatna, Guam 96932



COCO-JO'S  
**EXHIBIT**  
**A**



Photos of Suncare's geographically deceptive products





Photos of Suncare's geographically deceptive products







Photos of Suncare's geographically deceptive products





Photos of Suncare's geographically deceptive products







Photos of Suncare's geographically deceptive products





Photos of Suncare's geographically deceptive products



COCO-JO'S  
**EXIBIT**  
**B**

Suncare's Evidence of First Use



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William Ymesel 0

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27 of about 83

CONFUSE

Ship Slipway Australia - www.bsk.net.au - 2 dockyards in Brisbane &amp; Cairns ship slipways for repairs &amp; refits.

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Drafts

Circles

Friends

Family

Acquaintances

Who says I'm offline??

Search, chat, or SMS

Carter Dalton

en2je

Guru

wave-kmp

Jason Sales

Viewed nightly, as

Vincent Dela Cruz

wesley ymesel

B71chaibot

jasonsales

kuamiv

New Beach box

From: [redacted]

Sophia

Jan 5

People (3)

Sophia

Add to circle

[redacted]

发件人: William Ymesel  
 发送时间: 2012-01-04 12:31:38  
 收件人: [redacted] Edil Alvarez'  
 抄送: 'George Patterson'  
 主题: RE: RE: Saipan order #20  
 Sophia,

We have two new designs for our 5oz chocolates. Please download the following design layouts and use to create the new boxes for Cluster/Milk Chocolate and Crunch/Milk Chocolate products.

1. New Cluster Design - <http://susa.sunarazwan.com/Download/Cluster-Dolphin.zip>
2. New Crunch Design - <http://susa.sunarazwan.com/Download/Crunch-Beach.zip>

Will receive this and we can edit the file. But it's just a box file. How about box bottom? Just a white bottom with necessary information? Pls advise so as we can finish the full box design with back lid and bottom/Sophia

Let me know if you have any issues with the files

Thank you.

Will

Ads - Why trust

Cyberzone  
 World's Fastest  
 Lifetime Warrant  
[www.sonictool.com](http://www.sonictool.com)

Hotbird Spc  
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25 of about 93

COMPOSE

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Who says I'm offline??

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Guru

wave-xmap

Jason Sales

weird nighty, so

Vincent Dale Cruz

wesly ymesel

ETichatbot

jasonsales

kuamtv



Bx- 29 Dolphin revised

Print

Jan 9



People (3)

Sophia

Add to circles

Recent photos



See

Ads - Why have

Cyberzone

World's Fastest

Lifetime Warri

www.somitoor

Holabird Spc

Save Big & Sh

Deals on Race

Apparel

www.hoagintj

6 Sigma Jet i

Custom Jet Kit

Scoter Nitro

SSigmaJetKit.c

Government

Deals on "Seiz

Activate Your /

Now!

GovernmentAu

Discount Sci

Get Kids Mov

Will

See attachment and give me your comment soon! We change the chocolate picture. We give the code of Bx-29 to the new Dolphin box.

2012-01-09

Sophia



发件人: William Ymesel  
发送时间: 2012-01-09 16:26:51  
收件人: [redacted]  
抄送: 'George Patterson'; 'Edi Alvarez'  
主题: RE: new boxes  
Sophia,

I agree with you. Please change the cluster photo to your photos from Box #18.

Thank you,  
Will

From: Sophia [mailto:[redacted]]  
Sent: Monday, January 09, 2012 2:23 PM  
To: William Ymesel



+William Search Images Maps Play YouTube News Gmail Drive Calendar More -

Google

dolphin

William Ymesel 0

Gmail





Move to inbox

More

22 of about 93

COMPOSE

Cyberonic Toothbrush - www.cyberonictoothbrush.com - World's Fastest Electric Brush Lifetime Warranty & Free Brushes

Inbox

Starred

Important

Sent Mail

Drafts

Circles

Friends

Family

Appointments



Who says I'm offline??

Search, chat, or SMS

671chatbot

Carter Dotson

sn2ja

Guru

kusmtv

wave-xm2p

weaty ymesel

Jason Salas

jasonsalas

notifxous

new box sample #29/30 (dophine & beach)

view

Sophia

Jan 31

Dear Will,

Have you received improved new box Dophine and Beach put in the container?  
Can you confirm to start?

2012-01-31

Sophia



George Patterson georgepattam@yahoo.com

Feb 1

Hi,

we are showing the new box to our customer, we will know tomorrow.

George Patterson  
President  
Sencore Distributors  
1122 Route 16  
Barrigada, Guam 96913  
Tel: 671-633-6646

People (3)

Sophia

Add to circles

Recent photos



Ads - Why Not?

Holabird Spc.  
Save Big & Sh.  
Deals on Race  
Apparel  
www.holabirdspc.com

Ship Slipway  
2 dockyards in  
ship slipways &  
www.boc.net.0

Discount Sci  
Get All Classic  
Day Delivery, C  
www.DiscountSci.com

Macy's Inter  
Now Available!  
Order Easily O  
Macy's.com

Hyundai | Ca  
Guam's Author  
Ask about our

+William Search Images Maps Play YouTube News Gmail Drive Calendar More +

Google

dolphin

William Ymesel 0

Gmail

Move to Inbox

More

22 of about 93

COMPOSE

Sophia [REDACTED]

Feb 2

Cybernetic To

Inbox

Starred

Important

Sent Mail

Drafts

Circles

Friends

Family

Acquaintances

Who says I'm offline??

Search, chat, or SMS

671chatbot

Carter Dotson

on2je

Guru

kuamtv

wave-xmipp

westy ymesel

Jason Salas

jasonsalas

notskouz

Any confirmation or comment on new boxes?

2012-02-02

Sophia



发件人: George Patterson  
 发送时间: 2012-02-01 17:20:28  
 收件人: [REDACTED]  
 抄送: WY

主题: Re: new box sample #29/30 (dophine &amp; beach)

Sophia [REDACTED]

Feb 2

We had covered some flowers on her bra already. Do you mean to cover more flowers on both bra and beach short?

2012-02-02

Sophia



People (3)

Sophia

Add to circles

Recent photos



Ads - Why Rise

Holabird Spd  
 Save Big & Sh  
 Deals on Race  
 Apparel  
[www.holabirdsp.com](http://www.holabirdsp.com)

Ship Slipway  
 2 dockyards in  
 ship slipways 1  
[www.bss.net.uk](http://www.bss.net.uk)

Discount Sol  
 Get All Classic  
 Day Delivery. C  
[www.DiscountSol.com](http://www.DiscountSol.com)

Macy's Inter  
 Now Available i  
 Order Easily O  
[Macy's.com](http://Macy's.com)

Hyundai | Ca  
 Guem's Author  
 Ask about our

William Search Images Maps Play YouTube News Gmail Drive Calendar More

Google

dolphin

William Ymasei 0

Gmail

Move to Inbox

More

22 of about 93

COMPOSE

Inbox

Starred

Important

Sent Mail

Drafts

Circles

Friends

Family

Accomplishments



Who says I'm offline??

Search, chat, or SMS

671chatbot

Carter Dotson

en2ja

Guru

Kuenty

wake-xmmp

weety ymasei

Jason Sales

jasonsales

notiforous



发送时间: 2012-02-03 12:12:14

收件人:

协议

主题: Re: Re: new box sample #29/30 (dolphin & beach)

S,

The dolphin is ok but the women are having a problem with the small bathing suit of the beach. Any suggestions on putting flowers to cover up the small suit?

George Patterson

President

Suncare Distributors

1122 Route 16

Barrigada, Guam 96913

Tel: (671) 633-6649

Fax: (671) 633-6656

Cell: (671) 787-0606

Email: [georgepatterson@suncare.com](mailto:georgepatterson@suncare.com)

Personal: [georgepatterson@yahoo.com](mailto:georgepatterson@yahoo.com)

Web: <http://www.suncareguam.com/>

From: Sophia

To: George Patterson <[georgepatterson@yahoo.com](mailto:georgepatterson@yahoo.com)>

Cc: will <[will@suncareguam.com](mailto:will@suncareguam.com)>, Ed Alvarez <[ed@hawaii.com](mailto:ed@hawaii.com)>

Sent: Thursday, February 2, 2012 6:41 PM

Subject: Re: Re: new box sample #29/30 (dolphin & beach)

Cybercast: To

People (3)

Sophia

Add to circle

Recent photos



Ads - Why these

Holabird Spr

Save Big & Sh

Drafts on Racq

Apparel

[www.holabirds.com](http://www.holabirds.com)

Ship Slipway

2 dockyards in

ship slipways f

[www.bse.net.au](http://www.bse.net.au)

Discount Sci

Get All Classic

Day Delivery. C

[www.DiscountSci.com](http://www.DiscountSci.com)

Macy's Interi

Now Available i

Order Easily O

[Macy.com](http://Macy.com)

Hyundai | Ca

Guam's Author

Ask about our

+William Search Images Maps Play YouTube News Gmail Drive Calendar More -

Google

dolphin

William Ymesei 0

Gmail



Move to Inbox



More

23 of about 93

COMPOSE

Ship Slipway Australia - www.bsa.net.au - 2 dockyards in Brisbane &amp; Cairns ship slipways for repairs &amp; refits.

Inbox

Starred

Important

Sent Mail

Drafts

Circles

Friends

Family

Acquaintances



Who says I'm offline??

Search, chat, or SMS

Carter Dutton

en2je

Guru

wwe-xmp

Jason Salas

viewed nightly, se

Vincent Dale Cruz

westy ymesei

671charbot

jasonsalas

kuamly



revised #30 box (beach)

Inbox

Sophia

Feb 5



People (3)

Sophia

Add to circles

Recent photos



36

Ads - Why these

Cybersonic  
World's Fastest  
Lifetime Warrant  
www.sonictoolHyundai | Ca  
Guam's Author  
Ask about our  
Hyundai's!  
www.carsplusgHolabird Spe  
Save Big & Shi  
Deals on Race  
Apparel  
www.holabirdsDiscount Shel  
Get All Classm  
Day Delivery, C  
www.DiscountMacy's Interi  
Now Available i

George,

Our designer use a skirt to cover, see attachment and if it's ok? Awaiting your feedback soon!

2012-02-05

Sophia



发件人: George Patterson

发送时间: 2012-02-03 17:12:14

收件人: [REDACTED]

抄送:

主题: Re: Re: new box sample #29/30 (dolphine &amp; beach)

S,

The dolphin is ok but the women are having a problem with the small bathing suit of the beach. Any suggestions on putting flowers to cover up the small suite?

George Patterson

President

Suncare Distributors

1122 Route 16

COCO-JO'S  
EXIBIT  
C  
Significance of Hafa Adai



# Inifresen *Håfa Adai*

(The Håfa Adai Pledge)

## ♦ Our Invitation

## ♦ What is The Håfa Adai Pledge?

## ♦ Examples of Pledges

## ♦ Why Take The Håfa Adai Pledge?

## ♦ Håfa Adai Pledge Application Form



## ❖ Our Invitation

### Hāfa Adai!

The Hāfa Adai Pledge program is a cornerstone of the Guam Visitors Bureau's local community branding campaign and your participation is critical to our success. Since its inception in 2009, the Hāfa Adai Pledge program has grown steadily both in numbers of participants as well as the content of individual pledges. To date over 300 private businesses, government agencies, non-profits and other organizations have joined the Hāfa Adai Pledge program.

The Hāfa Adai Pledge Program is a great way for your organization to become involved in promoting Guam's unique culture and sharing it not only with your employees but with our visitors as well. And aside from the great service to the community that the pledge provides, it's FREE!

Some important components of the Hāfa Adai Pledge program for you to consider:

**The Vision:** To develop and promote an inclusive movement and support of the Hāfa Adai spirit;

**The Mission:** To gain and maintain employer/organizational support for the Hāfa Adai spirit throughout the Hāfa Adai Pledge program and by upholding your individual pledge and increasing awareness of your pledge with your stakeholders;

**Strategic Goals:** Educate customers and other stakeholders, and practice what you pledge.

It's easy to get started!

Just fill out the attached pledge form and send it to the contact information indicated on the form. We look forward to answering any questions or entertaining any suggestions you may have to further develop the program. Si yubs ma'āse' for your consideration in joining the Hāfa Adai Pledge program.

Senseramente,

  
Joann Camacho  
GVB General Manager



Inifresen *Hāfa Adai*  
(The Hāfa Adai Pledge)





## ❖ What is The Håfa Adai Pledge?

Inifresen

*Håfa Adai*  
(The Håfa Adai Pledge)

The Håfa Adai Pledge is more than just a membership arrangement. It means making a deeper commitment and taking more responsibility as a citizen in our community. Taking the pledge means:

A. **"Uniting in one spirit"** with over 300 companies, organizations and entities, in the perpetuation and preservation of the language, culture and traditions of the indigenous people of this beautiful island we all dwell in;

B. To have more conscious awareness and concern about programs and movements in the community that perpetuate the Chamorro language, culture and traditions of our island and be involved with them by contributing and supporting them in one way or another;

C. Making a commitment by taking extra efforts on a daily basis that will **"make a difference"** in the survival of the Chamorro language, culture and traditions in some way or another;

D. Doing everything possible to **"go local, look local, and think local"** throughout the year (not just during Chamorro month).



## ❖ Examples of Pledges

Each company or organization will develop a list of Pledges that they are willing to commit to undertaking. Listed below are examples that may inspire you. You may replicate any number of these or tailor them to suit your organization/operation or you may create new ones that are unique and specific to your industry or organization. Here are some ideas to get you started:

### Language

- ✦ Greet customers with the "Hāfa Adai" salutation
- ✦ Start and end email/written communications with Chamorro salutations
- ✦ Answer the telephone with "Hāfa Adai"
- ✦ Utilize Chamorro (and English) on signage and advertisements

### Arts

- ✦ Incorporate traditional Chamorro images and local artwork throughout the office place and websites
- ✦ Play Chamorro music in the office or for telephone on-hold music
- ✦ Use indigenous symbols (latte stones, coconut trees, canoes, breadfruit leaves, etc.) in your entities designs, decor or uniforms
- ✦ Use traditional Chamorro performers to provide entertainment at events or for customers

### Traditions

- ✦ Designate Fridays as "Hāfa Adai Fridays" and have staff wear island wear to work (island shirts, flowers in hair, Chamorro jewelry)
- ✦ Provide Chamorro snacks (guyeria, rosketti, etc.) for your customers / guests
- ✦ Share traditional Chamorro Legends

### History

- ✦ Educate your employees on the historical sites around the island
- ✦ Organize or participate in hikes to historical and cultural hikes

### Values

- ✦ Treat our land with respect and organize or participate in roadside or beach clean-ups
- ✦ Recycle

Inifresen *Hāfa Adai*  
(The Hāfa Adai Pledge)





## ❖ Why Take The Håfa Adai Pledge?

Inifresen

*Håfa Adai*  
(The Håfa Adai Pledge)

Taking the Håfa Adai Pledge will:

- ❖ Provide a direction towards the future that will help unite our people in spirit, which will lead to peace (*Pås*) and goodwill (*Inafa' Måolek*) amongst the melting pot of people on our island.
- ❖ It will create a deeper appreciation and understanding of what it means to live out and experience the language, culture and traditions of the indigenous people of Guåhan.
- ❖ It will help restore the identity of those Chamorro's who have never known their true roots of our ancestry.
- ❖ It will encourage the reclaiming of the true essence being Chamorro, the appreciation of living amongst Chamoru's, and the love of living together on this wonderful God-given paradise.
- ❖ It will build pride amongst the island community centered around our vibrant heritage.
- ❖ It will encourage respect for the land and the ocean and will encourage our community not to litter.



## Chamorro language

From Wikipedia, the free encyclopedia

**Chamorro** (Chamorro: *Fino' Chamoru* or simply *Chamoru*) is a Malayo-Polynesian language (Austronesian), with much Spanish influence, spoken by about 47,000 people (about 35,000 people on Guam and about 12,000 in the Northern Mariana Islands).<sup>[2]</sup>

### Contents

- Speakers
- Language revitalization
- Classification
- Orthography
- Chamorro grammar
- Chamorro basic phrases
- Numbers
- Months
- Chamorro Studies
- See also
- Notes
- General references
- External links

### Speakers [edit]



**This section does not cite any references or sources.** Please help improve this section by adding citations to reliable sources. Unsourced material may be challenged and removed. (October 2019)

The Chamorro language is currently threatened, with a precipitous drop in language fluency over the past century. It is estimated that 75% of the population of Guam was literate in the Chamorro language around the time the United States captured the island during the Spanish–American War<sup>[3]</sup> (similar language fluency estimates for other areas of the Mariana Islands during this time period do not exist). A century later, the 2000 U.S. Census showed that fewer than 20% of Chamorros living in Guam speak their native language fluently, and a vast majority of those are over the age of 55.

A number of forces have contributed to the steep, post-WWII decline of Chamorro language fluency. A colonial legacy, beginning with the Spanish colonization of Guam in 1668, imposed power structures privileging the language of the region's colonizers. In Guam, the language suffered additional suppression when the U.S. Government banned Chamorro language completely in schools in 1922, and collected and burned all Chamorro dictionaries (Skutumpah-Kangas 2000: 206,

#### Chamorro

*Fino' Chamoru*

**Native to** The Marianas

**Ethnicity** Chamorro people

**Native speakers** 93,000 (1990–2000)<sup>[1]</sup>

**Language family** Austronesian

- Malayo-Polynesian (MP)

- Nuclear MP

- Sunda–Sulawesi MP?

- Chamorro

#### Official status

**Official language in**  Guam

 Northern Mariana Islands

#### Language codes

ISO 639-1   ch

ISO 639-2   cha

ISO 639-3   cha

**This article contains IPA phonetic symbols.** Without proper rendering support, you may see question marks, boxes, or other symbols instead of Unicode characters.



"Hafa Adai" sign at Antonio B. Won Pat International Airport in Guam

# urban

## DICTIONARY

look up anything, like your first name:

hafa adai

search

word of the day

categories

lists

dictionary

game

thesaurus

names

media

store

add

blog

random A B C D E F G **H** I J K L M N O P Q R S T U V W X Y Z # new favorites tv

### 1. hafa adai



90 up, 35 down



Hafa Adai (pronounced HALF A DAY) is "Hello" in Chamorro, the native language of Guam and the Islands of the Northern Marianas. It's basically used the same way as the word "Aloha" in the Hawaiian Islands.

*Hafa adai and welcome to Guam, "where America's day begins".*

**buy hafa adai mugs & shirts**

**hafa adai** **half a day** **hafa day** **hafaday** **guam** **chamorro** **hello** **greeting** **aloha**

**hafadai** **hafaadai**

**by somethingnew** **Nov 12, 2007** **add a video** **add to a list**

⌘ Random Word

### 2. Hafa Adai



32 up, 11 down



This salutation or greeting is similar to "Aloha" in Hawaii. Just as Hawaiians are well known for saying "Aloha!" so are the natives of Guam just as well known for saying "Hafa Adai!"

trending  
molly  
hashtag  
shadlick  
hipster  
rule 34  
lean  
7:10  
mansplain  
ratchet  
bottom out  
categories  
gaming  
sports  
food  
sex  
tv  
film  
celebrities  
military  
music  
weather  
insults  
see also  
chamorro  
guam  
hafadai  
hello







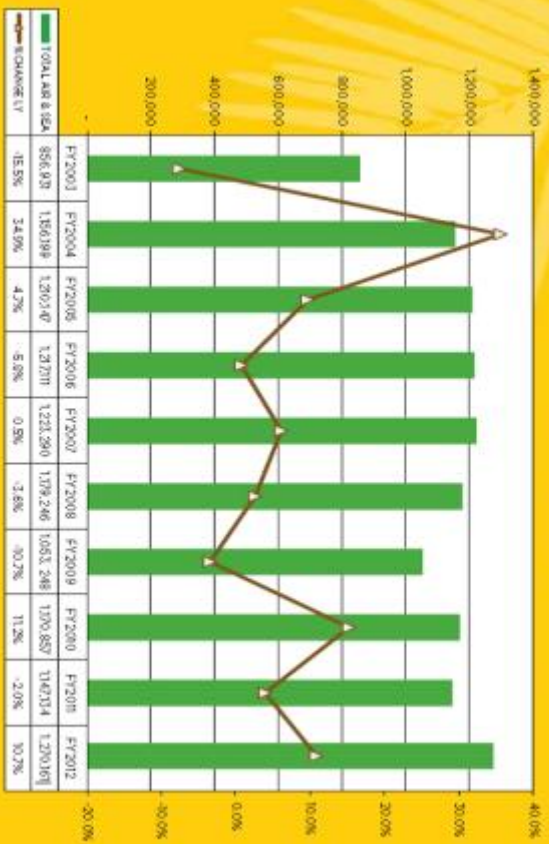


COCO-JO'S  
**EXHIBIT**  
**D**

Visitor Statistics



## FISCAL YEAR ARRIVALS • CIVILIAN/ARMED FORCES AIR & SEA



Compiled by the DFR Research Department

## FISCAL YEAR ARRIVALS CIVILIAN/ARMED FORCES AIR & SEA, BY ORIGIN

	FY2008	FY2009	FY2010	FY2011	FY2012	% Change LY	MIX
Japan	882,782	895,262	894,891	895,256	901,683	10.1%	72.7%
Korea	116,041	83,639	120,002	144,844	164,821	13.8%	13.3%
Taiwan, R.O.C.	212,377	221,390	29,413	40,707	49,483	22.5%	4.0%
US Mainland	37,103	37,779	42,619	40,074	41,399	2.8%	3.3%
Hawaii	9,267	8,891	9,863	9,488	9,768	3.0%	0.8%
China	18,394	17,747	18,243	17,910	17,708	-3.9%	1.4%
Palestine	3,455	3,645	3,439	3,516	3,667	4.3%	0.3%
FSN	8,509	9,239	9,516	10,164	10,135	-0.3%	0.8%
RMI	1,002	1,005	1,213	1,250	1,079	-13.7%	0.1%
Philippines	30,652	11,357	11,980	10,667	10,171	-4.7%	0.8%
Australia	2,409	2,421	2,779	3,558	3,542	-0.5%	0.3%
Canada	755	672	667	703	773	10.0%	0.1%
Europe	1,994	1,564	1,577	1,455	1,555	6.1%	0.1%
Hong Kong	4,921	2,802	5,640	8,512	8,396	-1.3%	0.7%
Thailand	213	245	264	370	303	-18.3%	0.02%
China P.R.C.	1,672	2,838	4,602	6,091	8,929	46.6%	0.7%
Vietnam	56	36	80	105	115	6.6%	0.03%
Russia	2	356	385	528	2,930	456.0%	0.2%
Other	3,987	3,430	3,664	3,715	4,097	10.3%	0.3%
<b>Total Civilian Air</b>	<b>1,123,831</b>	<b>1,025,119</b>	<b>1,180,947</b>	<b>1,122,921</b>	<b>1,240,020</b>	<b>10.4%</b>	<b>100.0%</b>
<b>Total Civilian Sea</b>	<b>3,591</b>	<b>7,384</b>	<b>7,658</b>	<b>7,937</b>	<b>4,847</b>	<b>-58.9%</b>	
<b>Total AF Air</b>	<b>9,190</b>	<b>10,675</b>	<b>11,981</b>	<b>15,802</b>	<b>21,615</b>	<b>39.4%</b>	
<b>Total AF Sea ***</b>	<b>42,634</b>	<b>9,470</b>	<b>371</b>	<b>774</b>	<b>3,679</b>	<b>375.3%</b>	
<b>TOTAL ARRIVALS</b>	<b>1,173,246</b>	<b>1,053,248</b>	<b>1,170,857</b>	<b>1,147,134</b>	<b>1,270,161</b>	<b>10.7%</b>	

\*\*\*Major Port Forward Source: Office of a new and Armed Forces arrivals. Customs and Agriculture Department from Customs is a separate agency. Data was not compiled by the DFR Research Department. Data was not compiled by the DFR Research Department.

COCO-JO'S  
EXIBIT  
E

UOG GRAD. STUDENT ESSAY

December 13, 2012

### Go Guam or Faux Guam?

As a visitor to Guam, or to any place for that matter, it is inevitable that some amount of shopping will occur during the trip. Guam's greatest generator of "non-government income" comes from its tourism industry, with approximately 1.2 million tourists arriving on Guam annually, and generating almost \$1.35 billion in revenue (Guam Economic Development Authority). According to the June 2012 *Japan Visitor Tracker Exit Profile* compiled by the Guam Visitors Bureau, tourists from Japan have about a 75% image recall for ads and promotions. Therefore, when Guam vendors want to sell their items, colorful, island images that catch the shopper's

attention are what sells.

As a tourist to Guam, if you were to see the following box of chocolates on a shelf in one of the countless ABC stores around Tumon or at the mall,



what would be your first thought? My thoughts would be that this box of chocolates was made on Guam and it is a local treat. However, to the "Buy Local"<sup>1</sup> trained eye, the box does not say "Made on Guam," but "Made in U.S.A." with giant capital letters that spell out the word "Guam"



above the enticing words “Premium Chocolate.” Unfortunately, the busy tourist often does not flip the box around to examine the “Made in” component of the good, which would help save local businesses, and even tourists, from being cheated and misled by counterfeit Guam products. These counterfeit companies are able to sell their products for considerably less because of the cheap labor costs in China<sup>ii</sup>, Taiwan, Indonesia and other places where the products are actually manufactured. As a result, the Guam manufacturer has a difficult time competing with low priced imported goods. Having numerous products sold under the guise that they are “Made on Guam” is



nothing new to the local manufacturer; however, the impact that these counterfeit products have on our island’s economy is immense and has become an issue even greater than the loss of sales. Products not manufactured on Guam, but presented as real Guam-made products, hurt our island’s economy, our local manufacturers, and ultimately, our island’s reputation.

In February of 2010 a Korean tourist emailed the Guam Visitors Bureau, thinking he had reached a government official, to complain about a box of chocolates that he and his family purchased during their recent trip to Guam. The email from Hong Bin Kim reads:

I return to Korea with my family and my last daughter just about to ate [sic] the chocolate, my wife found the big nail (peg) was getting stuck in chocolate. We were so shocked that we almost fainted. If my child ate Guam chocolate....Imagines, is (sic) unpleasant and I was very very upset. [...] family regretted a Guam travel very much and the food which buys (sic) from Guam all threw away. [...] I think Guam chocolate

manufacture company must stop a (sic) production. Therefore I am writing this letter. I cannot find the company address or internet site on the packing as well I also remember the Korean Air Lines airplane crash accident at Guam. Is Guam the country of safety insensitivity? Please, send my complaint mail to the Guam chocolate company with my attached photo and I wish Guam government a proper management. (Kim)



Chocolates that Hong Bin Kim purchased on Guam containing a metal nail.

Thankfully, the box of chocolates shown above is not manufactured in Guam. In fact, the box of chocolates are from Suncare Distributors<sup>iii</sup>, a company which is one of the most notorious vendors of counterfeit Guam products known to the local manufacturing community.

Unfortunately, Mr. Kim was unaware that this box of chocolates was not a Guam made product, but in fact, an imported product posing as “Premium” Guam chocolates. The packaging shows Guam in big capital letters above the catch line, “Premium Chocolates,” all wrapped up in beautiful packaging, that attracts the shopper set on purchasing Guam made souvenirs. So while local vendors may lose out on sales to those bigger off-island companies, the greater issue at stake is Guam’s reputation for making quality, local goods.

A decade ago there were about 60 manufacturing companies on Guam, but today there are less than a dozen (Selk, “Testimony”). According to Denise Selk in her testimony to the senators of the 31<sup>st</sup> Guam Legislature in support of Bills 226 and 227:

It is an understatement to say that we have been financially affected by this unfair competition and uneven playing field. Unfair or deceptive business practices strongly affect commerce on Guam. Anticompetitive practices may lead to price controls and diminished individual initiative [which, as a result, could] cause the market to stagnate and depress economic growth. If labeling, advertising, or marketing contains a representation or omission of fact that is likely to mislead consumers acting reasonably to believe that it is a Guam-made, Guam U.S.A.-made, Chamorro-made, or locally-made product, then it is deceptive. (Selk, “Testimony”)

In the case of Mr. Kim and the nail found in the box of “Premium Guam Chocolates” above, it clearly shows purposeful deception on the part of the manufacturer. It is no wonder why Mr. Kim believed that the box of chocolates were made on Guam, and why he set out to contact Government of Guam officials to complain about Guam’s seemingly lack of care for their locally made products. This may be only one reported instance, but imagine if there are more Mr. Kims out there who buy what they believe to be Guam-made products, and they are disappointed by the quality of the goods. Instances like this can have a major negative impact on local product sales among the tourism consumer base – the audience toward which these products are marketed. Additionally, Guam’s reputation for quality goods will be tarnished by the deceptive practices of these non-locally made, imported products.

As a result of local manufacturers’ frustrations over the unequal “playing field” on which they must compete with these bigger corporations that market their products as “Guam Made,” Bills 226 and 227 were recently signed into law this November. Senator Judi Guthertz presented

the bills “as a matter of ethics and fair treatment of tourists,” and in order “to protect ... local manufactureres and businesses” (Kerrigan). Bill 226 “requires that perishable products labeled ‘Guam,’ ‘Chamorro’ or derivatieves thereof show the actual country of origin on the front of the product,” and Bill 227 created a task force, The Guam Product Seal Task Force, under the supervision of Lt. Governor Ray Tenorio. The task force’s role is to “keep the ‘Made in Guam’ requirements on track,” or rather, enhance pride in local business and stimulate economic opportunity by promoting and protecting the manufacturing of products on Guam (Kerrigan).

The creation of the Guam Product Seal Task Force, as well as the passing of Bill 226 are only the initial steps to ensuring fair and truly competitive business practices for local manufacturers. However, the next steps to ensuring that quality Guam-made products are properly protected are to enforce these laws and to set up strict penalties for those companies that break them. So the next time you are shopping at Kmart, an ABC store, or JP Superstore, be on the lookout for these fake Guam-made products and pay close attention to the labeling and where the product is made. Support your local businesses, and “Go Guam! Buy Local!” or you may run the risk of biting into a Made in China metal nail, tucked delicately into your next delectable chocolate treat.



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## NOTES

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- i “The Local Guam Movement...Think, Support, Buy...is a targeted marketing education campaign that promotes the economic benefits of supporting Guam based businesses and organizations and Guam-based hiring. It is intended to motivate Guam consumers, businesses, and other organizations to keep the dollars circulating in Guam and shift spending by at least 10% towards Guam-based businesses. It will also promote providing more jobs for Guam's residents. The resulting benefits are more dollars for our local tax base to support public health care, safety, and education; roads and water systems; public parks; reduced carbon-footprint; and better balance of trade.” (Buy Local Guam)
  
  - ii See this article for more on “the secret of China's cheaper prices”:  
<http://www.industryweek.com/environment/viewpoint-why-china-cheaper>
  
  - iii Owned by Patterson Enterprises, Suncare Distributors sells many products marketed to look like Guam made items. Denise Selk (local business owner of Coco-Jo’s Cookies and Chocolates) wrote an email to numerous Guam senators stating: “For many years, Patterson Enterprises and other companies have been copying local manufacturers’ cookies and chocolates. They have been copying our flavors that we create, and our ideas of local packaging and appeal. Now that they are making it rich with our ideas that they copy in China and other places in Asia where ingredients are inferior (and health-risk questionable), materials are cheaper, and labor is a miniscule of what we pay, they are shutting down the real entrepreneurs [...] Hawaii shut down Patterson and Westco's practices of imitating Hawaiian manufacturers. Now these companies are doing the same thing here because they can. Even Hawaiian Host who is protected by their Hawaiian product law is sending chocolates to Guam and calling them Guam Host. Other Hawaiian chocolate companies are doing the same.” (“Bill”)

COCO-JO'S  
**EXHIBIT**  
**F**

Chinese-made food safety

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From: [Food Quality & Safety magazine, October/November 2011](#)

## Eye on China

Despite some promising signals, government and regulators struggle to ensure quality of that nation's exported food

by Ted Agres

Glow-in-the-dark pork. Exploding watermelons. These recent oddities from China might seem comical were it not for the country's abysmal food safety record, which includes deaths and illnesses caused by melamine-laced baby formula, *Salmonella*-tainted seafood, and clenbuterol-treated pork.

China's sprawling system of food production is largely unregulated, operating in a Wild West environment in which the drive for productivity and profit outweighs adherence to even the most basic safety and sanitary measures, according to Western experts and senior Chinese officials.

The misuse and overuse of hundreds of chemicals, many of them banned and toxic, have led to death for scores and sickness in hundreds of thousands of people throughout China. Recent opinion polls reveal that a majority of ordinary citizens mistrust their nation's food suppliers and processors. Those who can, grow their own food. The situation has become a matter of grave concern—and embarrassment—for China's leaders, who have pledged to severely punish violators, reward whistleblowers, and restructure oversight of the nation's food safety system.

But many experts remain skeptical of these promised reforms, because it is common for central government pronouncements never to be put into practice, and the local officials who oversee farmers and processors are evaluated and rewarded based on the quantity of food produced, not necessarily its quality. "There is often a serious disconnect between laws and policies issued by the central government and the level of enforcement and implementation put into effect by the local governments," said Stanley Lubman, China law specialist at the University of California Berkeley School of Law and author of several books on legal reforms in China. "It's a longstanding, systemic, structural problem."

The problem affects not only China but also the United States and other countries that import Chinese-grown and processed food. China is the world's leading seafood producer and one of the world's largest exporters of fruits, vegetables, and processed foods and ingredients. Over the past decade, exports of Chinese food products to the U.S. have tripled to nearly four billion pounds, worth \$5 billion. In 2009, China supplied 70% of the apple juice concentrate, 78% of the tilapia, and 43% of the processed mushrooms that Americans consumed. Excessive levels of arsenic and other toxic metals have been found in U.S. apple juice made from Chinese concentrate. At least one-third of the honey consumed in the U.S. is smuggled in from China and is likely tainted with illegal antibiotics, lead, and other heavy metals. Banned drugs, including human birth control pills and excessive and illegal antibiotics, have shown up in farmed fish exports.

Catching tainted products before they enter the U.S. food system is nearly impossible: U.S. Food and Drug Administration (FDA) inspectors examine less than 2% of all imported food items, and the handful of FDA officials stationed in China conducted only 13 food inspections between June 2009 and June 2010. "Our next safety scare could come compliments of China," said Wenonah Hauter, executive director of Food & Water Watch, a nonprofit public interest research group in Washington, D.C. "Given how pervasive poorly regulated Chinese food exports are in our food supply, the FDA has a responsibility to focus its attention on imported foods," Hauter said in a June report on China food safety.



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## Best and Worst Practices

In China, several thousand modern, large-scale, multinational, and joint venture companies and farms employ modern equipment and follow best food safety practices. Alongside these model industries exist 200 million small, independent farms, each less than two acres in size, raising animals and crops. There are also 480,000 licensed food processing enterprises, 80% of which employ 10 or fewer workers. These small growers,

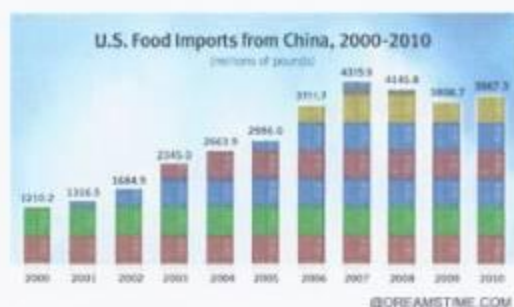


processors, and merchants rely on crude equipment and techniques and often ignore basic standards and proper practices.

“Some producers and merchants in China’s highly competitive [food supply] market cut corners, add toxic substances, or skimp on safety controls to fatten razor-thin profit margins or gain some other competitive edge,” concluded a July 2009 report by the U.S. Department of Agriculture’s Economic Research Service.

Ever since the Cultural Revolution, China’s Communist leaders have emphasized agricultural self-sufficiency—the domestic production of food sufficient to feed its burgeoning population. As a result, meeting ever-increasing food production quotas has been a vital responsibility for farmers and processors. The system fostered a disregard, or at least benign neglect, of public health and safety. “Just as we have enough to feed ourselves, we have this food safety problem,” Vice Premier Wang Qishan told a meeting of legislators in March, according to the state-run Xinhua News Agency. “This is really embarrassing for us.”

China formed a new Cabinet-level food safety commission and enacted comprehensive legislation in 2009 following the melamine baby formula scandal that killed at least six infants and sickened 300,000 in 2007 and 2008 (see sidebar). The new law created national standards to replace a fragmented patchwork of regulations overseen by myriad government agencies. This past April, the central government ordered a crackdown on food safety offenders. After just three months, authorities reported that they had inspected 5.92 million food businesses, arrested about 2,000 suspects, and shut down more than 4,900 operations for illegal practices. It is unclear how effective or durable this effort will be. “If the pressure continues, well and good,” said UC Berkeley’s Lubman. “But too many campaigns just fizzle out.”



[click for large version](#)

**Figure 1:** Includes meat; fish and seafood; dairy; vegetables, fruits, and nuts; coffee, tea, and spices; cereals, flours, oil seeds; fats; meat and fish preparations; sugar and confectionery; cocoa; cereal and dairy preparations; other edible preparations.

**Source:** USDA Foreign Agricultural Service.

In a June report to the National People’s Congress, Vice Chairman of the Standing Committee Lu Yongxiang said that although the 2009 law had been somewhat successful, more needed to be done. He pointed to an overall lack of knowledge about the law, faulted local agencies for lax oversight, and urged the public and media to report food outbreaks more quickly. Following this, China’s Supreme Court ordered judges nationwide to hand down harsher sentences, including the death penalty, for food safety violators. (This runs counter to recent Chinese efforts to reduce the number of death sentences.) The central government also instructed local governments to reward and protect whistleblowers who provide useful information on food safety violators and encouraged media outlets to investigate and report wrongdoing.

Among the reform efforts, the government’s encouragement of whistle-blowing and public reporting may best reflect China’s seriousness. Prior to this, government authorities had muzzled any publication or website that attempted to publicize food safety problems. Citizens who organized petitions or sought greater accountability and restitution for damages found themselves blacklisted, imprisoned, or both. For example, Zhao Lianhai, a

former food safety worker, was sentenced to 2.5 years in prison in 2010 for “disturbing the social order.” His son had been among those sickened by melamine in 2008, and Zhao led a citizens’ campaign seeking greater restitution and medical treatment from the government. He was granted a medical parole last December.

Also, in September, the Ministry of Industry announced plans to create a “Food Industry Credit System,” a nationwide public information platform to collect and disseminate information about food producers. The ministry will list companies that are “trustworthy” and those that are not. While participation is voluntary for most companies, those involved in manufacturing infant milk powder will be required to supply information.

Of course, whether these and other reform efforts will correct the long-standing and endemic problems remains to be seen. As He Wensheng, associate professor at the Lanzhou University School of Management in northwest Gansu province, put it, “The government has been filling the loopholes, but there’s a long way to go to win the food safety war.”

Agres, a frequent writer for Food Quality, is based in Laurel, Md. Reach him at [tagres@comcast.net](mailto:tagres@comcast.net).

## **SCHOOL FOR SCANDAL - Infamous food mishaps from China**



### **Melamine in milk:**

In 2007 and 2008, six infants in China died and 300,000 were sickened after consuming formula laced with melamine, an industrial chemical that made milk appear to have a higher

protein content in tests commonly used at the time, leading to higher prices in the market. In the U.S., melamine-tainted wheat gluten and rice protein imported from China and used to make pet food caused 17,000 pet illnesses, including 4,000 dog and cat deaths in 2007. Melamine-tainted dairy products were subsequently detected in candy, hot cocoa, and flavored drinks worldwide. Melamine has been detected in dog food products from China as recently as January.

### **Hydrolyzed leather milk:**

In February, press reports warned that some Chinese dairy producers had switched from using melamine to adding hydrolyzed leather protein made from scraps of animal skin to falsely boost the apparent protein content of milk.

### **Clenbuterol in pork:**



In early 2011, hundreds of people were sickened and hospitalized in China after eating pork products containing clenbuterol, a steroid fed to pigs to make them leaner, ensuring farmers higher prices at market. Clenbuterol can cause dizziness, heart palpitations, diarrhea, and profuse sweating in humans.



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### **Gutter oil:**



Chinese media outlets claim that up to 100 tons of illegal and used cooking oil is reprocessed and put back into the food chain daily. This so-called “gutter” or “swill” oil comes from waste animal fat or from previously used cooking oil, which can contain aflatoxin, a known carcinogen. The oil is reportedly scavenged from drains beneath restaurants and blended and bleached in large-scale facilities to be resold to retail outlets and food processors.

### **Glow-in-the-dark pork:**



In March, photographs surfaced showing raw pork glowing iridescent blue in the dark. Health officials said the meat had been contaminated by phosphorescent bacteria but was safe to eat if well cooked. Consumers remained skeptical.

### **Exploding watermelons:**



Some farmers in eastern China mistakenly applied forchlorfenuron, a plant growth accelerator, to watermelons too late in the season and during wet conditions, causing the melons to explode like “land mines,” according to press reports released in May. The exploded melons were fed to fish and pigs.

### **Other scandals:**

An estimated 10% of Chinese-grown rice is contaminated with toxic heavy metals from industrial pollution, including cadmium. Arsenic has been found in soy sauce; borax in pork; bleach in mushrooms; dyes in steamed buns; ink and paraffin in noodles; and sodium nitrite, urea, and antibiotics in bean sprouts.

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**JOHN P. CAMACHO**

*Director*



COCO-JO'S  
**EXIBIT**

**I**

J. Martinez Declaration



PATTERSON ENTERPRISES d/b/a	)	
SUNCARE DISTRIBUTORS,	)	
	)	
Opposer,	)	Opposition No. 91207808
	)	
V.	)	Serial No. 85563577
	)	
DENISE R. SELK d/b/a	)	Mark: HAFA ADAI
COCO-JO's.	)	
	)	Filing Date: February 18, 2012
Applicant.	)	
	)	

I, Joseph R. Martinez, declare and state the following:

- 1

job with Coco-Jo's also requires one-on-one interactions with shoppers in the stores of Guam's major tourism retailers.

3. My job with Coco-Jo's entails greeting shoppers who approach me, introducing them to Coco-Jo's' products, offering samples, answering questions, and directing them to other items they inquire about. I also maintain the appearance of Coco-Jo's display and ensure that the shelves are stocked.

4. A typical interaction always begins with an exchange of the "Hafa Adai" greeting. Locals and visitors are all familiar with the "Hafa Adai" greeting, they know what it means, and show pride in being able to speak the language of Guam.

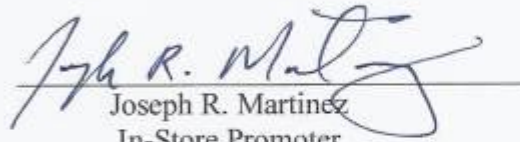
5. Very often, after sampling our product, and I have explained that Coco-Jo's is made in Guam and certified by the Guam Product Seal, the shopper will then enquire about a Suncare HAFA ADAI product in their cart. I tell them where to look for the place where it is made and the shopper will look at the small words "Product of China", usually with wide eyes and open mouth, then they always take the Suncare HAFA ADAI product out of their cart. I have personally never seen a shopper keep the item after learning that it is made in China.

6. Shoppers will visit with me because they are impressed with my ability to speak their language. Through these visits I have learned that shoppers are looking for products of Guam to buy for themselves, or to take home as gifts. I have also found that shoppers in general, even the Chinese tourists, do not want to buy food products from China. They all have concerns about safety of Chinese packaged food. With the Japanese, tradition requires them to bring gifts home to all their relatives and friends. It would

shame them if they brought back a Guam gift that was made in China or somewhere else in Asia.

I, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful and false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declare that all statements made of my own knowledge are true, and all statements made on information and belief are believed to be true.

Dated July 20, 2013

  
\_\_\_\_\_  
Joseph R. Martinez  
In-Store Promoter  
Coco-Jo's, Inarajan, Guam